

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

LEONITUS JABIR BEY,  
Plaintiff,

C.A. NO.: 19-cv-10219- PBS

v.

DAVID PENDER,  
Defendant

**DEFENDANT’S CONCISE STATEMENT  
OF MATERIAL FACTS OF RECORD AS TO  
WHICH HE CONTENDS THERE IS NO GENUINE  
ISSUE TO BE TRIED**

1. At approximately 6:00 P.M. on January 22, 2019, the plaintiff was traveling across the School Street Bridge in Lowell in the left turning lane. He made a choice of going straight in a left lane only turning lane because his alternator was dying, and he did not want to have to tow his truck off the road or in the middle of traffic. (Exhibit 1 - Pro Se Plaintiff’s Affidavit of Fact and Incident Report of the *Pro Se* Plaintiff attached to his Complaint, Document 1-1, p. 13.)

2. Officer Pender’s police cruiser’s lights went on from the McDonald’s parking lot which he had to wait for passing cars before he could exit the lot. (Exhibit 1 - - Pro Se Plaintiff’s Affidavit of Fact and Incident Report of the *Pro Se* Plaintiff attached to his Complaint, Document 1-1, p. 13.)

3. At that time, plaintiff was passing Third Street. He drove to his residence at 109 Fourth Avenue, five hundred feet away. He made the decision to continue on and pull over where it was safe for everyone. (Exhibit 1 - - Pro Se Plaintiff’s Affidavit of Fact and Incident Report of the *Pro Se* Plaintiff attached to his Complaint, Document 1-1, p. 13.)

4. The defendant shouted to the plaintiff: “Hands, let me see your hands!” But the

plaintiff could not get the window down because at that time the truck died so he informed the officer that the truck had dead [sic]. (Exhibit 1 - - Pro Se Plaintiff's Affidavit of Fact and Incident Report of the *Pro Se* Plaintiff attached to his Complaint, Document 1-1, p. 13.)

5. David Pender is police officer with the City of Lowell Police Department and the defendant in this case. (Exhibit 4, Affidavit of the Defendant David Pender.)
6. Pender noticed a gray pickup being operated by an individual later identified as Leon Campbell [the plaintiff] coming across the O'Donnell Bridge in the left lane which is marked left turn only with three signs saying left turn only and with the road painted in the lane also saying left turn only. (Exhibit 4, Affidavit of the Defendant David Pender.)
7. The operator ( the plaintiff, Mr. Campbell) proceeded straight in the left lane cutting off several motor vehicles that were in the right lane to go straight, almost causing an accident. (Exhibit 4, Affidavit of the Defendant David Pender.)
8. Pender activated his blue lights and siren to pull [the plaintiff] over but he refused to stop and continued to drive, going around several cars and going into the opposite side of the road causing inbound motor vehicles to move out of the way. He took a right onto Fourth Avenue and continued to drive down the road until he pulled into the driveway at 109 Fourth Avenue. (Exhibit 4, Affidavit of the Defendant David Pender.)
9. Pender approached the vehicle to speak to [the plaintiff] but he refused to open the window and he was reaching for something between the seats. (Exhibit 4, Affidavit of the Defendant David Pender.)
10. Mr. Campbell was asked to open the door and step out of the car, but he refused.

Mr. Campbell and his passenger became very loud and argumentative. (Exhibit 4, Affidavit of the Defendant David Pender.)

11. Mr. Campbell refused to give Pender his license and he said he did not feel safe and did not have to stop. (Exhibit 4, Affidavit of the Defendant David Pender.)

12. Pender attempted to get Campbell out of the vehicle, but he shoved Pender away. (Exhibit 4, Affidavit of the Defendant David Pender.)

13. The passenger came towards Pender. Pender pulled out his taser and pointed it towards the passenger while trying to get Mr. Campbell out of the truck. (Exhibit 4, Affidavit of the Defendant David Pender.)

14. Campbell slapped the taser out of Pender's hand causing it to land under the pickup.

15. Fearing for his safety, Pender struck Mr. Campbell in the face. (Exhibit 4, Affidavit of the Defendant David Pender.)

16. The plaintiff testified that all he did was grasp the steering wheel and Pender punched him in the face. (Exhibit 1 - - Pro Se Plaintiff's Affidavit of Fact and Incident Report of the *Pro Se* Plaintiff attached to his Complaint, Document 1-1, p. 13, Exhibit 3, the Transcript of the jury trial in the case of Commonwealth of Massachusetts v. Leon J. Campbell, Lowell District Court Docket No. 1911CR000365, page 203), Exhibit 5, Transcript of the deposition of the plaintiff, May 20, 2020. pps 35-39.)

17. Other officers arrived and Campbell was placed under arrest. (Exhibit 4, Affidavit of the Defendant David Pender.)

18. The plaintiff was arrested and charged with the following offenses: carrying a dangerous weapon pursuant to M.G.L. c. 269, §10, negligent operation of a motor

vehicle pursuant to M.G.L. c. 90, § 24(2)(a), unlicensed operation of a motor vehicle c. 90, § 10, providing false information to law enforcement pursuant to c. 268, § 34A, resisting arrest pursuant to M.G.L. c. 268. § 32B, failing to stop for a police officer pursuant to c. 90, § 25, a marked lane violation pursuant to c. 89, § 4A, operating an unregistered motor vehicle pursuant to c. 90, § 9, and a passing violation pursuant to M.G.L. c. 89. § 2. (Exhibit 1 - Criminal Complaint of the Lowell District Court attached to Plaintiff's Complaint, Document 1-1, p. 21-24.)

19. After a jury trial at Lowell District Court on September 3-September 4, 2019, the verdict and findings on the charges were as follows: carrying a dangerous weapon – not guilty; negligent operation of a motor vehicle – guilty – sentenced to six months in the house of correction, suspended with probation until September 3, 2021; unlicensed operation of a motor vehicle – guilty - \$500.00 fine; providing false information to law enforcement – *nolle prossed*; resisting arrest – guilty – sentenced to six months in the house of correction, suspended with probation until September 3, 2021 concurrent with the charge of negligent operation of a motor vehicle; failing to stop for a police officer – guilty - \$100.00 fine; marked lane violation – responsible filed; unregistered vehicle – not responsible; passing lane violation – responsible, filed. (Exhibit 2 – Certified docket from the Lowell District Court in the case of Commonwealth of Massachusetts v. Leon J. Campbell, Lowell District Court Docket No. 1911CR000365.)

20. The *pro se* plaintiff represented himself in the criminal trial and testified under oath. (Exhibit 3 – Transcript of the jury trial in the case of Commonwealth of Massachusetts v. Leon J. Campbell, Lowell District Court Docket No. 1911CR000365.)

21. The *pro se* plaintiff goes by two names Leon J. Campbell also known as Leonitus Javir Bey. (Exhibit 3 – Transcript of the jury trial in the case of Commonwealth of

Massachusetts v. Leon J. Campbell, Lowell District Court Docket No. 1911CR000365, Day 1, p. 32-33.)

22. The individual who was tried in the Lowell District Court is one and the same as the *pro se* plaintiff here Leonitus Javir Bey. (Exhibit 3 – Transcript of the jury trial in the case of Commonwealth of Massachusetts v. Leon J. Campbell, Lowell District Court Docket No. 1911CR000365.)

23. Leonitus J. Bey was then processed under the name Leon J. Campbell. (Exhibit 1 - Affidavit of Fact and Incident Report of the Pro Se Plaintiff attached to his Complaint, Document 1-1, p. 3.)

24. The convictions have not been appealed. (Exhibit 5, Affidavit of Bradford n. Louison.)

The Defendant,

By his attorney,

*/s/Bradford N. Louison*

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101 Summer Street  
Boston, MA 02110  
(617) 439-0305

Date: August 27, 2020

**CERTIFICATE OF SERVICE**

I hereby certify that on this day, I caused the foregoing to be served by first class mail to:

Leonitus Jabir Bey  
P.O. Box 1934  
Lowell, Mass 01854

*/s/Bradford N. Louison*

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Bradford N. Louison

Date: August 27, 2020